United Nations S/AC.49/2016/3

Security Council

Distr.: General
16 June 2016

Original: English

Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 31 May 2016 from the United States Mission to the United Nations addressed to the Chair of the Committee

Please find attached the submission of the United States of its national implementation report for Security Council resolution 2270 (2016) (see annex).

16-10109 (E) 120716

Please recycle

Annex to the note verbale dated 31 May 2016 from the United States Mission to the United Nations addressed to the Chair of the Committee

Report of the United States of America for the Security Council on efforts to implement Council resolution 2270 (2016)

The present report describes concrete measures by which the United States implements paragraphs 6, 8, 10, 11, 13, 14, 17-23, 27 and 29-36 of Security Council resolution 2270 (2016) regarding the Democratic People's Republic of Korea (DPRK). The United States considers it essential for Member States to fully and effectively implement this resolution. The United States intends to continue supporting other States' efforts, as requested, and to the extent possible, to implement the resolution.

Among the measures through which the United States implements the relevant provisions of the resolution are the following:

Paragraph 6: Decides that the measures in paragraph 8 (a) of resolution 1718 (2006) shall also apply to all arms and related materiel, including small arms and light weapons and their related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms and related materiel;

The International Traffic in Arms Regulations, administered by the Bureau of Political-Military Affairs of the State Department, prohibit the supply, sale or transfer to, inter alia, the DPRK, from United States territory, or by United States nationals, of defence articles and defence services, unless otherwise authorized. Section 126.1 of the International Traffic in Arms Regulations states that it is the policy of the United States to deny licences and other approvals for exports of defence articles and defence services destined for the DPRK.

The Export Administration Regulations, administered by the Bureau of Industry and Security of the Department of Commerce, prohibit the export from the United States to the DPRK (or re-export from a third country to the DPRK) of all items subject to those Regulations except food or medicine designated as "EAR99", unless otherwise licensed. Under Executive Order 12981, the Bureau of Industry and Security refers all licence applications for exports or re-exports to the DPRK to the Departments of Defense and State for review. Section 746.4 (b) (2) of the Regulations states that applications to export or re-export arms and related materiel from the United States to the DPRK are subject to a general policy of denial.

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Pursuant to this section of the Executive Order, which also refers to Commerce authorities (given existing Export Administration Regulations export and re-export licence requirements), the Office of Foreign Assets Control of the Treasury Department prohibits re-exports/exports from abroad to the DPRK by United States persons of items not subject to the Export Administration Regulations.

With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States law. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

Paragraph 8: Decides that the measures imposed in paragraphs 8 (a) and 8 (b) of resolution 1718 (2006) shall also apply to any item, except food or medicine, if the State determines that such item could directly contribute to the development of the DPRK's operational capabilities of its armed forces, or to exports that support or enhance the operational capabilities of armed forces of another Member State outside the DPRK, and decides also that this provision shall cease to apply to the supply, sale or transfer of an item, or its procurement, if:

(a) the State determines that such activity is exclusively for humanitarian purposes or exclusively for livelihood purposes which will not be used by DPRK individuals or entities to generate revenue, and also not related to any activity prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, provided that the State notifies the Committee in advance of such determination and also informs the Committee of measures taken to prevent the diversion of the item for such other purposes, or

(b) the Committee has determined on a case-by-case basis that a particular supply, sale or transfer would not be contrary to the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution;

With respect to exports to the DPRK:

- The Export Administration Regulations, administered by the Bureau of Industry and Security of the Department of Commerce, prohibit the export from the United States to the DPRK (or re-export from a third country to the DPRK) of all items subject to those Regulations except food or medicine designated as "EAR99", unless otherwise licensed. The Bureau of Industry and Security's inter-agency licence review under those Regulations, which involves consultations with the Departments of State, Energy and Defense, considers whether an item could directly contribute to the activities described in paragraph 8 of Security Council resolution 2270 (2016). The requirements of the Bureau of Industry and Security also include humanitarian exceptions consistent with paragraph 8.

- Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Pursuant to this section of the Executive Order, which also refers to Commerce authorities (given existing Export Administration Regulations export and re-export licence requirements), The Office of Foreign Assets Control prohibits exports from abroad/re-exports by United States persons to the DPRK of items not subject to the Export Administration Regulations (primarily foreign origin/non-United States-origin items), as well as services.

- With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

- The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

- With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States law. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is

subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

With respect to procurement from the DPRK:

- Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.
- In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person or the Government of the DPRK has any interest.

Paragraph 10: Decides that the measures specified in paragraph 8 (d) of resolution 1718 (2006) shall apply also to the individuals and entities listed in Annex I and II of this resolution and to any individuals or entities acting on their behalf or at their direction, and to entities owned or controlled by them, including through illicit means;

Paragraph 11: Decides that the measures specified in paragraph 8 (e) of resolution 1718 (2006) shall apply also to the individuals listed in Annex I of this resolution and to individuals acting on their behalf or at their direction;

The United States has designated all of the individuals and entities listed in annexes I and II to resolution 2270 (2016) for an asset freeze under various authorities administered by the Department of the Treasury and the Department of State. The rules of the Office of Foreign Assets Control extend this freeze to entities that are 50 per cent or more owned by designated persons. Individuals and entities acting on behalf or at the direction of a designated individual or entity, and entities that are controlled (but are not 50 per cent or more owned) by designated entities, are generally subject to derivative designations under the authority used to designate the primary target.

The authorities used to designate the individuals listed in annex I for an asset freeze (Executive Orders 13382,[1] 13687 and 13722) also impose a travel ban, and the names of those individuals have been entered into the appropriate consular database for assessment should an individual apply for a visa or entry. Individuals and entities acting on behalf or at the direction of a designated individual or entity are generally subject to derivative designations under the authority used to designate the primary target.

The Department of Homeland Security has the authority to deny entry into or transit of aliens through the United States based on grounds specified by the

[1] For those designated under Executive Order 13382, the travel ban is imposed by Presidential Proclamation 8693.

relevant laws and regulations, including, for example, 8 U.S.C. §§ 1182 (a) (3) (C) and (f).

Paragraph 13: Decides that if a Member State determines that a DPRK diplomat, governmental representative, or other DPRK national acting in a governmental capacity, is working on behalf or at the direction of a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, then the Member State shall expel the individual from its territory for the purpose of repatriation to the DPRK consistent with applicable national and international law, provided that nothing in this paragraph shall impede the transit of representatives of the Government of the DPRK to the United Nations Headquarters or other UN facilities to conduct United Nations business, and decides that the provisions of this paragraph shall not apply with respect to a particular individual if: a) the presence of the individual is required for fulfillment of a judicial process, b) the presence of the individual is required exclusively for medical, safety or other humanitarian purposes, or c) the Committee has determined on a case-by-case basis that the expulsion of the individual would be contrary to the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and this resolution;

The Department of Homeland Security can remove such an individual pursuant to a final order of removal, or if the individual poses a threat to national security or public safety (see 8 U.S.C. § 1227 (a) (4)).

Paragraph 14: Decides that, if a Member State determines that an individual who is not a national of that State is working on behalf of or at the direction of a designated individual or entity or assisting the evasion of sanctions or violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, then Member States shall expel the individual from their territories for the purpose of repatriation to the individual's state of nationality, consistent with applicable national and international law, unless the presence of the individual is required for fulfillment of a judicial process or exclusively for medical, safety or other humanitarian purposes, or the Committee has determined on a case-by-case basis that the expulsion of the individual would be contrary to the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, provided that nothing in this paragraph shall impede the transit of representatives of the Government of the DPRK to the United Nations Headquarters or other UN facilities to conduct United Nations business;

The Department of Justice may be able to prosecute such an alien if there was a violation of federal criminal law; if not, the Department of Homeland Security would consider grounds for removal if necessary. The Department of Homeland Security can remove such an individual pursuant to a final order of removal, or if the individual poses a threat to national security or public safety (see 8 U.S.C. § 1227 (a) (4)).

Paragraph 17: Decides that all Member States shall prevent specialized teaching or training of DPRK nationals within their territories or by their nationals of disciplines which could contribute to the DPRK's proliferation sensitive nuclear activities or the development of nuclear weapon delivery systems, including teaching or training in advanced physics, advanced computer simulation and

related computer sciences, geospatial navigation, nuclear engineering, aerospace engineering, aeronautical engineering and related disciplines;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. The Bureau of Industry and Security continues to restrict exports and re-exports of technology and software of United States origin to the DPRK, whether by United States persons or non-United States persons, including deemed exports and re-exports (releases of technology subject to the Export Administration Regulations to a foreign national in the United States or in a third country). The provision of specialized teaching or training to DPRK nationals could constitute an export of services to the DPRK under the Executive Order (and is therefore prohibited except as otherwise licensed or exempted). Such teaching or training could also involve a release of technology to a foreign national; if the technology is subject to the Export Administration Regulations, the Bureau of Industry and Security would restrict its release as a deemed export or re-export under the Export Administration Regulations. (The standard is whether information that constitutes "technology" subject to the Export Administration Regulations is released, including by visual inspection or verbal communications, to a foreign national in the United States or in a third country.)

Consular officers may refuse a visa to such an alien if there are reasonable grounds to believe that the alien seeks to enter the United States to violate or evade United States export control laws (including the ban under Executive Order 13722 on the export of services to the DPRK and the Export Administration Regulations restrictions on exports and re-exports of technology to DPRK nationals, wherever located) (see 8 U.S.C. § 1182).

Paragraph 18: Decides that all States shall inspect the cargo within or transiting through their territory, including in their airports, seaports and free trade zones, that has originated in the DPRK, or that is destined for the DPRK, or has been brokered or facilitated by the DPRK or its nationals, or by individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, or by designated individuals or entities, or that is being transported on DPRK flagged aircraft or maritime vessels, for the purposes of ensuring that no items are transferred in violation of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and this resolution, and calls upon States to implement such inspections in a manner that minimizes the impact on the transfer of cargo that the State determines is for humanitarian purposes;

With respect to cargo that has originated in the DPRK, section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK, unless otherwise licensed or exempted.

With respect to cargo that is destined for the DPRK:

- The Export Administration Regulations, administered by the Bureau of Industry and Security of the Department of Commerce, prohibit the export from the United States to the DPRK (or re-export from a third country to the

DPRK) of all items subject to those Regulations except food or medicine designated as "EAR99", unless otherwise licensed.

- Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. (As noted above, the Office of Foreign Assets Control prohibits the re-export by United States persons from abroad to the DPRK of items not subject to the Export Administration Regulations.)

- The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to DPRK-flagged aircraft, the DPRK is a "special interest country", as designated by the State Department. Consequently, all DPRK-registered aircraft, aircraft using the International Civil Aviation Organization (ICAO) designator of a DPRK company or aircraft used for DPRK diplomatic flights require Federal Aviation Administration routing authorization for flights in United States territorial airspace. Authorizations for such flights could be conditioned upon a requirement to land at an appropriate location for inspection.

With respect to aircraft of any flag subject to inspection under paragraph 18 of Security Council resolution 2270 (2016), if there is a need to reroute an aircraft and direct it to land for inspection, to deny it clearance to take off from, land in or overfly the United States or for any other special air traffic handling, such as directing the aircraft to park at a specially designated location, the agency responsible for ordering the inspection — which could be the Department of State, the Department of Homeland Security or other agencies — would inform the National Tactical Security Operations Air Traffic Security Coordinator team, which is a 24/7 operational security cell at Federal Aviation Administration headquarters. The Federal Aviation Administration's Air Traffic Organization would then work with the requesting agency to direct the aircraft to an appropriate location where the appropriate United States or foreign partner resources can be brought to bear. (Note: In certain limited circumstances, the Federal Aviation Administration provides air traffic services in the territorial airspace of foreign countries under international arrangements and could potentially be involved in handling flights for which the relevant authorities of those foreign countries ordered inspections under paragraph 18.)

Depending on the nature of any cargo carried in violation of paragraph 18 that might be found during an inspection, there could be a violation of the Department of Transportation Hazardous Materials Regulations in subchapter C of subtitle B of Title 49 of the Code of Federal Regulations, which the Federal Aviation Administration enforces with respect to aviation, and potentially of other Federal Aviation Administration regulations.

The Departments of Commerce and the Treasury coordinate any proposed licences with the Department of State, to address compliance with paragraph 18.

Paragraph 19: Decides that Member States shall prohibit their nationals and those in their territories from leasing or chartering their flagged vessels or aircraft or providing crew services to the DPRK, and decides that this prohibition shall also apply with respect to any designated individuals or entities, any other DPRK entities, any other individuals or entities whom the State determines to have assisted in the evasion of sanctions or in violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, any individuals or entities acting on behalf or at the direction of any of the aforementioned, and any entities owned or controlled by any of the aforementioned, calls upon Member States to de register any vessel that is owned, operated or crewed by the DPRK, further calls upon Member States not to register any such vessel that is de-registered by another Member State pursuant to this paragraph, and decides that this provision shall not apply with respect to such leasing, chartering or provision of crew services notified to the Committee in advance on a case-by-case basis accompanied by: a) information demonstrating that such activities are exclusively for livelihood purposes which will not be used by DPRK individuals or entities to generate revenue, and b) information on measures taken to prevent such activities from contributing to violations of the aforementioned resolutions;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Section 1 of Executive Order 13722 blocks property and interests in property of the Government of the DPRK. These provisions prohibit United States persons, which includes persons located in the United States, from leasing or chartering vessels or aircraft or providing crew services to the DPRK and DPRK entities, unless otherwise licensed.

Existing authorities prohibit United States persons, which includes persons located in the United States, from leasing or chartering vessels or aircraft or providing crew services to other United Nations-designated entities that the United States has already designated domestically.

The Office of Foreign Assets Control rules also block entities that are 50 per cent or more owned by designated persons.

Individuals and entities acting on behalf or at the direction of a designated individual or entity, and entities that are controlled (but are not 50 per cent or more owned) by designated entities, are generally subject to derivative designations under the authority used to designate the primary target.

With respect to the call upon States to de-register and not register vessels in certain circumstances, subchapter G of Title 46 of the Code of Federal Regulations contains the regulations that govern the registration and documentation requirements for vessels seeking registration in the United States. Those regulations also set forth the requirements for ownership interest in United States-registered vessels. Further, when a vessel comes into United States registry after having been registered in a foreign country, the applicant must present a copy of the last foreign registration and evidence of removal from all foreign registries. If a United States

vessel is surrendering United States-vessel documentation and is sold or registered as a foreign vessel, the vessel owner must provide the United States Coast Guard with evidence of the sale and the nationality of the buyer or country where the vessel will be registered.

Paragraph 20: Decides that all States shall prohibit their nationals, persons subject to their jurisdiction and entities incorporated in their territory or subject to their jurisdiction from registering vessels in the DPRK, obtaining authorization for a vessel to use the DPRK flag, and from owning, leasing, operating, providing any vessel classification, certification or associated service, or insuring any vessel flagged by the DPRK, and decides that this measure shall not apply to activities notified in advance by the Committee on a case-by-case basis, following provision to the Committee of detailed information on the activities, including the names of individuals and entities involved in them, information demonstrating that such activities are exclusively for livelihood purposes which will not be used by DPRK individuals or entities to generate revenue and on measures taken to prevent such activities from contributing to violations of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution;

Under Executive Order 13466, administered by the Department of the Treasury in consultation with the Department of State, United States persons may not register a vessel in the DPRK, obtain authorization for a vessel to fly the DPRK's flag or own, lease, operate or insure any vessel flagged by the DPRK.

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Pursuant to this section of the Executive Order, which also refers to Commerce authorities (given existing Export Administration Regulations export and re-export licence requirements), the Office of Foreign Assets Control prohibits exports from abroad/re-exports by United States persons of items not subject to the Export Administration Regulations (primarily foreign origin/non-United States-origin items), as well as services. The Bureau of Industry and Security would continue to approve or deny licence applications for exports and re-exports of items subject to the Export Administration Regulations, including by United States persons, wherever located.

Paragraph 21: Decides that all States shall deny permission to any aircraft to take off from, land in or overfly, unless under the condition of landing for inspection, their territory, if they have information that provides reasonable grounds to believe that the aircraft contains items the supply, sale, transfer or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, except in the case of an emergency landing, and calls upon all States, when considering whether to grant overflight permission to flights to assess known risk factors;

The Federal Aviation Administration is responsible for the management of the navigable airspace of the United States and may direct the movement of airborne aircraft (see 49 U.S.C. 40103). The Federal Aviation Administration may reroute an aircraft and deny permission for take-off from, landing in or overflight of United States territory.

If there is a need to reroute an aircraft and direct it to land for inspection/interdiction; deny it clearance to take off from, land in or overfly the United States; or for any other special air traffic handling, such as directing the aircraft to park at a specially designated location, the agency responsible for ordering the inspection or interdicting the prohibited activity — which could be the Department of State, the Department of Homeland Security or other agencies — would inform the National Tactical Security Operations Air Traffic Security Coordinator team, which is a 24/7 operational security cell at Federal Aviation Administration headquarters. The Federal Aviation Administration's Air Traffic Organization would then work with the requesting agency to direct the aircraft to an appropriate location where the appropriate United States or foreign partner resources can be brought to bear.

As the DPRK is a "special interest country", as designated by the State Department, all DPRK-registered aircraft, aircraft using the ICAO designator of a DPRK company or aircraft used for DPRK diplomatic flights require Federal Aviation Administration routing authorization for flights in United States territorial airspace. Authorizations for such flights could be conditioned upon a requirement to land at an appropriate location for inspection.

Depending on the nature of any items carried in violation of paragraph 21 of Security Council resolution 2270 (2016) that might be found during an inspection, there could be a violation of the Department of Transportation Hazardous Materials Regulations in subchapter C of subtitle B of Title 49 of the Code of Federal Regulations, which the Federal Aviation Administration enforces with respect to aviation, and potentially of other Federal Aviation Administration regulations.

Paragraph 22: Decides that all Member States shall prohibit the entry into their ports of any vessel if the Member State has information that provides reasonable grounds to believe the vessel is owned or controlled, directly or indirectly, by a designated individual or entity, or contains cargo the supply, sale, transfer or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, unless entry is required in the case of emergency or in the case of return to its port of origination, or for inspection, or unless the Committee determines in advance that such entry is required for humanitarian purposes or any other purposes consistent with the objectives of this resolution;

The Department of Homeland Security implements the provision under paragraph 22 of Security Council resolution 2270 (2016) under existing general harbour master authorities to deny entry to vessels. The United States Coast Guard can deny port entry to vessels for safety or security purposes (see 33 U.S.C. §§ 1223).

Paragraph 23: Recalls that the Committee has designated the DPRK firm Ocean Maritime Management (OMM), notes that the vessels specified in Annex III c.f this resolution are economic resources controlled or operated by OMM and therefore subject to the asset freeze imposed in paragraph 8 (d) of resolution 1718 (2006), and underscores that Member States are required to implement the relevant provisions of that resolution;

The Department of the Treasury identified all of the vessels listed in annex III to resolution 2270 (2016) as property of designated entities subject to its asset freeze.

Paragraph 27: Decides that the measures imposed in paragraphs 8 (a) and 8 (b) of resolution 1718 (2006) shall also apply to any item if the State determines that such item could contribute to the DPRK's nuclear or ballistic missile programs or other weapons of mass destruction programs, activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), and this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), and this resolution;

With respect to exports to the DPRK:

- **The Export Administration Regulations, administered by the Bureau of Industry and Security of the Department of Commerce, prohibit the export from the United States to the DPRK (or re-export to the DPRK) of all items subject to those Regulations except food or medicine designated as "EAR99", unless otherwise licensed. The Bureau of Industry and Security's licensing authority broadly covers exports/re-exports that could contribute to the DPRK's weapons of mass destruction or ballistic missile programmes or to the evasion of restrictions set forth in DPRK-related Security Council resolutions. The Bureau of Industry and Security applies a policy of denial to the transactions described in paragraph 27 of Security Council resolution 2270 (2016).**
- **Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. (The Office of Foreign Assets Control prohibits exports/re-exports of items not subject to Bureau of Industry and Security licences or its jurisdiction, including exports from abroad/re-exports by United States persons of items not subject to the Export Administration Regulations.)**
- **With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.**
- **The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).**

- With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States laws. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Department of Homeland Security/Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

With respect to procurement from the DPRK:

- Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

- In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person or the Government of the DPRK has any interest.

Paragraph 29: Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, coal, iron, and iron ore, and that all States shall prohibit the procurement of such material from the DPRK by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of the DPRK, and decides that this provision shall not apply with respect to:

(a) Coal that the procuring State confirms on the basis of credible information has originated outside the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason), provided that the State notifies the Committee in advance and such transactions are unrelated to generating revenue for the DPRK's nuclear or ballistic missile programs or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution; and,

(b) Transactions that are determined to be exclusively for livelihood purposes and unrelated to generating revenue for the DPRK's nuclear or ballistic missile programs or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution;

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the

purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person or the Government of the DPRK has any interest.

With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States laws. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Department of Homeland Security/Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

Paragraph 30: Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, gold, titanium ore, vanadium ore, and rare earth minerals, and that all States shall prohibit the procurement of such material from the DPRK by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of the DPRK;

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the

purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States laws. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Department of Homeland Security/Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

Paragraph 31: Decides that all States shall prevent the sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of aviation fuel, including aviation gasoline, naptha-type jet fuel, kerosene-type jet fuel, and kerosene-type rocket fuel, whether or not originating in their territory, to the territory of the DPRK, or unless the Committee has approved in advance on an exceptional case-by-case basis the transfer to the DPRK of such products for verified essential humanitarian needs, subject to specified arrangements for effective monitoring of delivery and use, and decides also that this provision shall not apply with respect to the sale or supply of aviation fuel to civilian passenger aircraft outside the DPRK exclusively for consumption during its flight to the DPRK and its return flight;

The Export Administration Regulations, administered by the Bureau of Industry and Security of the Department of Commerce, prohibit the export from the United States to the DPRK (or re-export from a third country) of all items subject to those Regulations except food or medicine designated as "EAR99", unless

otherwise licensed. The Regulations licence requirement covers all vessels or aircraft subject to those Regulations, regardless of flag. The Bureau of Industry and Security would review licence applications for the sale/supply of aviation fuel subject to the Regulations, or vessels or aircraft subject to the Regulations transporting the fuel, under a general policy of denial.

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Under the Executive Order, the Office of Foreign Assets Control prohibits exports from abroad by United States persons of items not subject to the Export Administration Regulations.

With respect to United States-flagged aircraft, since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, e.g., 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial waters of another country, to enforce United States laws. If the vessel is itself of United States origin, or if the value of the United States-origin parts of the vessel exceeds 10 per cent of the vessel's total value, the vessel itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK. Within United States customs waters (up to 24 nautical miles from United States shores) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Department of Homeland Security/Coast Guard and the United States Customs and Border Protection share authority to board vessels, examine manifests and search cargo (see, e.g., 19 U.S.C. § 1581 and 14 U.S.C. § 89).

Paragraph 32: Decides that the asset freeze imposed by paragraph 8 (d) of resolution 1718 (2006) shall apply to all the funds, other financial assets and economic resources outside of the DPRK that are owned or controlled, directly or indirectly, by entities of the Government of the DPRK or the Worker's Party of Korea, or by individuals or entities acting on their behalf or at their direction, or by

entities owned or controlled by them, that the State determines are associated with the DPRK's nuclear or ballistic missile programs or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, decides further that all States except the DPRK shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of such individuals or entities, or individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, and decides that these measures shall not apply with respect to funds, other financial assets and economic resources that are required to carry out activities of the DPRK's missions to the United Nations and its specialized agencies and related organizations or other diplomatic and consular mission of the DPRK, and to any funds, other financial assets and economic resources that the Committee determines in advance on a case-by-case basis are required for the delivery of humanitarian assistance, denuclearization or any other purpose consistent with the objectives of this resolution;

Section 1 of Executive Order 13722 blocks property and interests in property of the Government of the DPRK and the Worker's Party of Korea.

Paragraph 33: Decides that States shall prohibit in their territories the opening and operation of new branches, subsidiaries, and representative offices of DPRK banks, decides further that States shall prohibit financial institutions within their territories or subject to their jurisdiction from establishing new joint ventures and from taking an ownership interest in or establishing or maintaining correspondent relationships with DPRK banks, unless such transactions have been approved by the Committee in advance, and decides that States shall take the necessary measures to close such existing branches, subsidiaries and representative offices, and also to terminate such joint ventures, ownership interests and correspondent banking relationships with DPRK banks within ninety days from the adoption of this resolution;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Section 3 (a) (ii) of Executive Order 13722 prohibits new investment in the DPRK by United States persons, wherever located.

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

Paragraph 34: Decides that States shall prohibit financial institutions within their territories or subject to their jurisdiction from opening new representative offices or subsidiaries, branches or banking accounts in the DPRK;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation

or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Section 3 (a) (ii) of Executive Order 13722 prohibits new investment in the DPRK by United States persons, wherever located.

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

Paragraph 35: Decides that States shall take the necessary measures to close existing representative offices, subsidiaries or banking accounts in the DPRK within ninety days, if the State concerned has credible information that provides reasonable grounds to believe that such financial services could contribute to the DPRK's nuclear or ballistic missile programs, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, and decides further that this provision shall not apply if the Committee determines on a case-by-case basis that such offices, subsidiaries or accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions in the DPRK pursuant to the Vienna Convention on Diplomatic Relations or the activities of the United Nations or its specialized agencies or related organizations, or for any other purposes consistent with resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

Paragraph 36: Decides that all States shall prohibit public and private financial support from within their territories or by persons or entities subject to their jurisdiction for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the DPRK's nuclear or ballistic missile programs or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution, including paragraph 8;

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except

as otherwise licensed or exempted. Section 3 (a) (ii) of Executive Order 13722 prohibits new investment in the DPRK by United States persons, wherever located.

The Bureau of Industry and Security would also have a role based on its authority to approve or deny licence applications for United States persons' activities that could contribute to the DPRK's weapons of mass destruction programmes or other activities prohibited under the various DPRK Security Council resolutions. Applications to engage in such activities will be denied if the activities would make a material contribution to the DPRK's weapons of mass destruction programmes (see section 744.6 of the Export Administration Regulations). Such prohibited support need not involve the export/re-export of an item subject to the Export Administration Regulations.